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August 13, 2020

By ECF

Hon. Lewis J. Liman
United States District Judge

Re: *Convergen Energy LLC, et al. v. Brooks, et al.*
Case No. 1:20-CV-03746-LJL (S.D.N.Y.)

Dear Judge Liman:

Our firm represents Specially Appearing Defendants Steven J. Brooks, Gregory Merle, NianticVista Energy, LLC, and Riverview Energy Corporation in the above action. We note that Plaintiffs, in their letter (ECF No. 113)¹ submitted as directed by the Court's August 7 Order (ECF No. 110), neglected to provide Defendants' proposal with respect to Plaintiffs' preliminary injunction motion. Defendants' proposal is:²

- That Defendants' motion to dismiss (ECF No. 91), which is fully briefed, be taken up first before resetting a schedule on Plaintiffs' preliminary injunction motion, as Defendants' motion presents threshold issues (such as jurisdiction and venue) that will likely impact and may moot Plaintiffs' motion;
- In the event the Court decides to reset a schedule now on Plaintiffs' preliminary injunction motion, that Plaintiffs' brief and supporting Declarations be due by no later than August 21, and that Defendants' brief and supporting Declarations be due no later than September 4 (with no reply briefing by either side);
- That depositions of Declarants are unnecessary at this stage (the parties agreed on this); and
- That new Declarations should address the parties' and their IT consultants' efforts to conciliate and respond to the concerns raised in Plaintiffs' motion (the parties apparently do not agree on this).

Thank you for your time and consideration. All counsel of record are copied on this letter.

¹ Plaintiffs' letter raises a number of new issues unrelated to scheduling. Other than noting that Plaintiffs' accusations are outrageous and they materially misrepresent the facts and record in nearly every respect, Defendants would address such issues in their briefing.

² The parties' correspondence on scheduling is enclosed.



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Respectfully Submitted,

KOHNER, MANN & KAILAS, S.C.

Ryan M. Billings

Ryan M. Billings/RMB

Encls.

cc: Counsel of Record via ECF